

**TESTIMONY OF**  
**WILLIAM W. MILLAR, PRESIDENT**  
**AMERICAN PUBLIC TRANSPORTATION ASSOCIATION**  
**BEFORE THE**  
**SUBCOMMITTEE ON RAILROADS**  
**OF THE**  
**HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE**  
**ON**  
**THE U.S. RAIL CAPACITY SHORTAGE**

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**SUBMITTED BY**

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**APTA is a nonprofit international association of more than 1,600 public and private member organizations including transit systems and commuter rail operators; planning, design, construction and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products. More than ninety percent of persons using public transportation in the United States and Canada are served by APTA members.**

## **Introduction: Grow Rail to Grow America**

Chairman LaTourette, Ranking Member Brown, and members of the House Railroads Subcommittee, on behalf of the American Public Transportation Association (APTA), we thank you for this opportunity to appear before you today to discuss the U.S. Rail Capacity Crunch. We very much appreciate that the Subcommittee is taking a comprehensive view, considering both passenger and freight issues. While goods movement is critical, the emergence of America's service economy has heightened the importance of on-time movement of people as well.

America long has enjoyed the most extensive and efficient transportation system in the world. Today, other countries are catching up. Policies that support the growth of railroads – passenger and freight – are critical to America's mobility and our ability to compete in a global economy.

The critical capacity issues affecting railroads – passenger and freight – are a part of an overall crisis in transportation system capacity that also affects our airports, roadways, port facilities, and public transportation infrastructure. Such congestion is putting severe stress on America's transportation and logistics network, which historically has given America its economic edge.

## **Positioning for a Rail Renaissance**

The past twenty-five years has been a period of significant change for the American railroad industry. While the Staggers Act of 1980 is rightfully credited with helping the once threatened railroad industry become profitable again, it has also led to significant consolidation and downsizing of America's railroad network. Rail freight traffic has grown in many places to the limits of capacity. What has been rational and profitable from a railroad shareholder viewpoint, has also resulted in a downscaling of America's overall rail network.

Meanwhile, over this same 25 year period commuter railroads have blossomed, and have also been a major success story. Last year, passengers took 423 million trips on our commuter railroads, a nationwide ridership increase of 2.8 percent from the year 2004. Ridership increases are being experienced by every commuter railroad in America. The Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU), enacted in summer 2005, includes significant funding to expand rail systems and build new rail systems. This year, new commuter rail systems will open in Nashville and Albuquerque. New systems are in advanced stages of development in Minneapolis, Salt Lake City, Portland, Charlotte, Raleigh, and Denver. Other communities are not far behind, among them Phoenix, Ann Arbor, Austin, Atlanta, Harrisburg, Pittsburgh and Orlando. These projects will help reduce congestion and provide mobility options, integrate regional economies, and provide one of the quickest ways for individuals and families to beat the high cost of gasoline.

Looking to the future, railroads – passenger and freight - are poised to play an even greater role in enabling commerce and economic growth. Earlier this year America surpassed the 300 million mark in population. In 30 more years we are projected to reach 400 million. Most of the population will be living in metropolitan areas, making our use of land and transportation corridors all the more important. A look at the Los Angeles region's Metrolink commuter rail system provides a projection of demand anticipated for commuter rail services. Freight and passenger rail traffic in the L.A. / Orange County / Riverside corridor is expected to leap from 172 trains today to a total of 265 trains by 2010, and to a projected 390 trains per day in 2025.

While America needs a transportation policy balanced on the strengths and synergies of roads, ports and rails, overall there should be a higher reliance on rail modes, which are much more efficient in terms of land and energy. Indeed, adding rail capacity is imperative also for its positive impact on parallel freeways already clogged with traffic. These urban/suburban areas have roads that are not only hopelessly congested, but roads that have already been expanded to close to their maximum capacity. Adding highway capacity in these areas is enormously expensive. For a fraction of the cost of such road construction/expansion, existing railroad rights-of-way can be reactivated / expanded / improved to accommodate traffic and reduce highway congestion for both freight and passenger movements.

### **Tight Capacity Has Affected Commuter Railroads and Their Riders**

Overcrowded trains, stations and park-and-ride lots, not to mention queues of trains waiting to pull into stations, are visible signs that existing rail infrastructure is being overburdened. Facilities that were designed for a certain level of service are now seeing passenger volumes that exceed these limits. In addition, as more trains are added to the same amount of track, scheduling and on-time performance becomes a greater challenge. Longer freight trains – as long as 2<sup>1</sup>/<sub>2</sub> miles – also make sidings hard to utilize, and makes on-time performance and shared operations more difficult.

Commuter railroads have sought to maximize throughput by lengthening trains and converting fleets to double-deck cars. Systems such as CalTrain's have also looked to creative scheduling to maximize the use of available capacity. Strategic scheduling of The Baby Bullet trains serving the San Francisco Bay Area have been a major success in this regard, increasing system ridership by over 20 percent and significantly increasing fare revenues.

Confronting system bottlenecks is another key. For example, during rush hour each day, several commuter trains per minute – carrying hundreds of thousands of passengers - pass through the Northeast Corridor tunnel linking New Jersey and New York. To accomplish such an operational feat each day is a minor miracle. Planning for future growth becomes another question.

On lines owned by freight railroads and shared with commuter lines, innovative ideas have been applied to enhance the compatibility of shared-track operations. A tighter scheduling of freight traffic, more compatible speeds, elevation of curves represent some of the operating practices that have been negotiated. In many places public funds have been used for capacity improvements in order to accommodate commuter rail operations. In Virginia, an agreement is in place providing for incremental increases in passenger train operating privileges as publicly financed capacity improvements are constructed to relieve bottlenecks. Other places have reported that funds invested in adding infrastructure capacity get eaten up by increased freight traffic.

It is possible that we can deal with rail freight bottlenecks at the same time we address the needs for high-speed rail. Proposed high-speed rail systems such as Midwest Regional Rail Initiative will benefit freight systems and will mitigate if not eliminate bottlenecks that occur in Chicago, Milwaukee, Cleveland, Toledo, St. Paul, and St. Louis. Conversely, inaction on the freight corridor capacity issue will prolong indefinitely the process of implementing new or improved corridor services. Examples include the lengthy discussion surrounding the initial commuter line proposed for Atlanta, the multi-year investments made in the Seattle-Portland route, and many other routes that are ripe for passenger service.

### **Strategic Importance of Rail Corridors in Built-up Urban Areas**

Historically, America's rail corridors have been used for both freight and passenger purposes. Many corridors go back to the time when federal land-grants were awarded as incentives for railroad companies to build in developing sections of America. For a long period of time both passenger and freight services were operated by the private sector under laws governing public utilities. As passenger operations were abandoned by private railroads, services were often taken over and/or supported financially by public entities.

Today, over 90 percent of commuter rail trips are on lines that are publicly owned. This includes large, long-established systems such as New York's Long Island Rail Road and Metro North Rail Road, NJ Transit, the Southeastern Pennsylvania Transportation Authority, and the Massachusetts Bay Transportation Authority. Newer systems such as Florida's Tri-Rail, the Trinity Railway Express in Texas, and soon-to-open systems in Albuquerque and Salt Lake City have opted to acquire their own rights-of-way. Chicago's Metra system and the Metrolink system in Los Angeles own some of their lines, while using other lines owned by freight railroads. Systems including the Virginia Railway Express, Seattle's Sounder, the Altamont Commuter Express and Nashville's Music City Star system operate entirely on tracks owned by freight railroads.

The cost and availability of suitable real estate in built-up urban environments means that growth of rail passenger service will be highly dependent on access to existing rights-of-way. It will often make sense to use existing railroad right-of-way for new commuter rail projects. As a matter of community design and good public policy, this is preferable to dislocating homeowners and businesses in the acquisition of new right-of-way. Ironically, many transit agencies typically are able to exercise eminent domain to acquire the property they need, except with railroads. When it comes to railroad right-of-way, there is no requirement for any process for taking into consideration the public interest.

In 2001 several bi-partisan bills were introduced that would have created a federal process to protect the public interest and resolve disputes that arise when parties cannot agree on terms and conditions for the use of railroad right-of-way. Freight railroads would benefit from such a process. Simply put, when investments are made in freight corridors, such investments in track, signals and infrastructure benefit everyone, and also bring revenue to the railway owner.

The questions should be: 1) How can the freight railroad get a fair deal for the use of its property, and 2) How can we deliver to the public critical rail passenger projects without prolonged delay or consternation?

### **Passenger and Freight Railroads Should Grow Together!**

How will commuter railroads be able to achieve the expected rate of growth? Certainly, it will require a partnership among communities, freight railroads and government partners. Collectively, we need to figure out ways to grow to the challenge.

The American economy depends on the efficient movement of people and goods. Rail freight systems operating at full capacity and providing maximum return to shareholders is good for some, but it is not where America's interest should stop. In Tennessee, Virginia and many other states, a lack of rail freight capacity has resulted in more truck traffic on the interstate highways causing congestion at near-crisis proportions. America needs new policies that will enable economic growth rather than hinder it.

Certainly, infrastructure investment is a critical factor. While APTA and stakeholder groups have celebrated SAFETEA-LU as a landmark in federal transportation policy, it remains true that in the United States about 2 percent of GNP is invested in transportation infrastructure, down from historical levels of about 2<sup>1</sup>/<sub>2</sub> percent.

Many of the ideas that have been put on the table have merit. The States for Passenger Rail organization has been adamant and consistent in its call for a dedicated fund for high-speed rail projects, to be supported through tax-exempt and tax-credit bonds, as is proposed by this Committee's Ride-21 legislation. APTA is supportive of this concept and concurs that such a fund needs to be separate and distinct from the federal Highway Trust Fund and Mass Transit Account. Continued funding and expansion of the Swift High Speed Rail Act is another important tool that can enable growth of high speed rail. The bottom line is that we need to create a favorable policy climate in which high speed rail systems can evolve and serve the mobility needs of Americans.

Freight railroads have promoted the concept of investment tax credits as a partial offset for amounts of private capital reinvested in private railroad infrastructure in instances where there is a public benefit. We believe that a key public benefit should be the accommodation of passenger trains. Difficulties in operating passenger service in a freight-owned right-of-way have caused some systems to acquire their own right-of-way. I contend, however, that the co-existence of freight and passenger rail services on common trackage / rights-of-way can and must be sustained to make fully effective use of these assets, and expanded federal investment in rail must be structured in a way that ensures reasonable access at a fair price. Some rail passenger systems are developing innovative ways to calculate the "public benefit" derived from freight railroads cooperation in rail passenger services, and what the freight railroad partner should be entitled to as a result. Perhaps this is something to build on! Passenger and freight railroads should grow together!

Certain rail bottlenecks in the national railroad system may require a national level effort. The CREATE and Alameda Corridor projects are examples. Consistent with earlier discussion, an additional Trans-Hudson rail tunnel would be another example of a project with critical national overtones. The Projects of National Significance program in SAFETEA-LU needs to become a place where multi-modal railroad megaprojects judged to have the most national merit can look to for appropriate funding. For this program to be effective, the timing of the review process must be in step with the strategic dealings of the project itself.

Other programs offer possible assistance for addressing capacity issues. The Railroad Rehabilitation and Improvement Financing (RRIF) program is a potential source of important capital funding for both freight and passenger rail projects. Only a limited number of loans have been released under this program since it was constituted in TEA 21, and APTA urges that any remaining administrative obstacles be cleared in order to put this innovative program to use.

Certainly, technology can offer solutions as well. APTA appreciates the ability of positive train control and similar technologies and its potential for enhancing safety while enabling railroad to operate at a higher level of service.

An overarching issue will be to get projects done sooner. Projects that sit on the drawing board an inordinate number of years do no good for the American economy. Project sponsors who have gotten bogged down in the federal funding process or in negotiations with freight railroads are beginning to consider whether the only way to get projects done in a reasonable timeframe is to forego these partnerships. The process should be better than that. A central theme of SAFETEA-LU was to expedite program delivery. China is one country where they cannot seem to build new rail capacity fast enough. Let's do the same in America!

In regard to high-speed rail, while America watches, industrialized countries, and some not so advanced countries, are rapidly seizing on high-speed rail systems to complement their trans and intercontinental airlines and to interconnect and support their metro area transit systems. This includes the new 7,000 – 12,000 mile high-speed rail system now under construction in China. It is a plan to connect all provinces and the 30 largest cities in a national grid system that will share corridors with freight operations but have dedicated tracks for high-speed rail in dense corridors. Annual investment in Chinese high-speed passenger rail construction will be \$16 to \$20 billion. New signaling technology and centralized traffic control will also improve Chinese railroad capacity. High-speed rail is also making advances in Japan, France, Germany, Sweden, Italy, Spain, South Korea and Taiwan and is being adopted in Mexico and other emerging economies. On the business side, non-American firms are the primary beneficiaries of this expansion in high-speed rail capacity. German, Japanese, French and Canadian railway equipment and signaling technology suppliers are seizing on new business opportunities, while the U.S. continues to fall behind in what could be described as “The Great Railroad Building Race.”

As Congress and the Administration pursue the policy goal of energy independence, our transportation policy in many ways favors our petroleum-dependent modes and not our energy efficient systems. In contrast, Europe and Japan have used high-speed rail systems to replace short-hop airlines and a significant amount of inter-city auto travel in those areas. Short-hop airlines are more petroleum intensive and polluting than a person driving an SUV, on a seat-mile basis.

Finally, a key determinant in the growth of commuter and high speed rail relates to liability insurance requirements and conditions. Acts of terrorism against transit in Madrid in 2004 and in London in 2005 have raised the stakes on liability coverage. Some freight railroads are now requiring coverage of \$500 million – at times as much as \$700 million - a severe detriment for providing rail passenger service. One approach would be to build on the Amtrak Reform and Accountability Act of 1997, which caps passenger claims at \$200 million. It would be an enormous boost to passenger rail operation if this cap could be clarified to apply to all claims.

## **Conclusion**

In conclusion, America needs to grow its railroads. While some may see passenger and freight railroads as distinct and on different economic paths, I believe there are synergies that can be captured through policies that look at railroads in an inclusive way. We thank the Committee for advancing the dialogue on the future of our rail system with today's hearing.

With only a limited number of transportation corridors, strategies must include freight and passenger rail interests working together. With the completion of the interstate highway system, some have suggested that the national purpose of the federal surface transportation program has been lost. As America competes in the global economy, it is our transportation, logistics and education systems that will give us the advantage. Energy independence and emergency response are among other strategic national goals supported by an increased emphasis on rail.

Congressionally created commissions will soon begin looking at these issues in depth. I look forward to working with these commissions, as well as with this Subcommittee. It is our transportation network that can make the difference for America's position in the global economy.